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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,460	04/29/2002	Juergen Lorenz	H 4136 PCT/US	4081
23377	7590	12/13/2006	EXAMINER	
WOODCOCK WASHBURN LLP CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891			HAIDER, SAIRA BANO	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/009,460	<b>Applicant(s)</b> LORENZ ET AL.	
	<b>Examiner</b> Saira Haider	<b>Art Unit</b> 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 14-19 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-19 and 22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/28/2006 has been entered.

### *Claim Rejections - 35 USC § 102*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 14-18 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Datcoop as evidenced by Hashimoto (US 5341862 A) and Hawley's (Carbon Black article).
4. The reference discloses thermoplastic compositions comprising either rubber waste or leather fibers with a tenside surfactant (abstract). Examples show 15-50% by weight of hide fibers mixed with the balance of an ethylene-vinyl acetate copolymer/polyethylene blend. Additives may also be included. Regarding the claims' exclusion of ionic and non-ionic surfactants (tensides), it is noted that the reference is provides an illustrative embodiment containing only leather fibers and the ethylene-vinyl acetate copolymer in the absence of a tenside (Example 10). It is noted that Example 10 discloses the inclusion of rubber, which Datcoop discloses is derived from tyres (tires) (pg. 6, lines 17-18). It is well known that tires contain carbon black as evidenced by Hashimoto (col. 4, lines 61-62), and that carbon black is recognized as a dye, as evidenced by Hawley's (Carbon Black article). Hence inclusion of rubber, which additionally functions as a dye in the composition of Datcoop, reads on the claimed invention.

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5. It is noted that Example 10 discloses only 10% of the leather fibers by mass included in the composition, however, Datcoop discloses that the scrap leather is included in the composition in a relatively high quantity (10-70% by mass) (pg. 1, lines 4-15). Therefore, it is noted that Datcoop readily envisages a higher percentage by mass of the leather fibers, and thus meets the claimed limitations.

6. Claims 14-18 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Czerwinski et al. as evidenced by Hawley's (Polyvinyl Acetate article).

7. The reference teaches thixotropic compositions comprising a liquid material and leather fibers (col. 2 lines 20-22), where polyvinyl acetate and other thermoplastics are taught as liquid coating composition binders (col. 5, lines 21-35). The binders are used in amounts of 1-95% by weight, while the leather fibers are used in amounts up to about 20% by weight (col. 5, lines 36-50). The reference also teaches the claimed fibers lengths (table, col. 12).

8. Applicants have argued that Czerwinski requires a thixotropic component not a thermoplastic component. However, Czerwinski specifies that classes of organic liquids may be rendered thixotropic according to the present invention include organic film-formers, such as polyvinyl acetate (col. 5, lines 1-4 and col. 5, lines 21-35). Polyvinyl acetate is recognized in the art as a thermoplastic high polymer, as evidenced by Hawley's (Polyvinyl Acetate article). Hence, disclosure of polyvinyl acetate by Czerwinski is recognized to function as both a thixotropic and a thermoplastic agent, and reads on the claimed invention.

9. Applicants have argued that Czerwinski requires a liquid carrier, which applicant's claims do not require. Examiner notes that the liquid carrier of Czerwinski functions as a transporter of the organic film-formers (such as polyvinyl acetate), hence, the liquid carrier is acting as a preservative of

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the organic film-former. Thus inclusion of the liquid carrier in the composition of Czerwinski reads on the claimed invention.

10. Applicants have argued that Czerwinski does not disclose the claimed amount of thermoplastic composition. In response, examiner directs attention towards claim 14 of Czerwinski, which clearly discloses that the amount of organic film-forming polymer (such as polyvinyl acetate) is present in the thixotropic composition in an amount of about 1 to about 95 % by weight. Hence meeting the claimed limitation.

***Claim Rejections - 35 USC § 103***

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Datcoop, as applied above, in view of Moran (US 4882373) and as being unpatentable over Czerwinski, as applied above, in view of Moran (US 4882373).

13. The disclosures of Datcoop and Czerwinski are provided above. Datcoop provides broad disclosure of suitable thermoplastic compositions including styrene copolymers (pg. 1, lines 4-8). Czerwinski provides broad disclosure of suitable thermoplastic compositions including cellulose acetate and polyvinyl chloride (col. 5, lines 21-29). However, neither Datcoop nor Czerwinski expressly disclose that the composition includes a thermoplastic binder comprised of a copolymer of butadiene and styrene. Hence attention is drawn towards the Moran reference. Moran discloses an asphaltic composition comprising a thermoplastic elastomer (abstract). Specifically, Moran discloses that the asphaltic compositions can be used in additional applications, such as roofing sheets, adhesives and coatings (col. 1, lines 55-62). Datcoop and Czerwinski are considered analogous art

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to Moran because both Datcoop and Czerwinski disclose that the respective compositions can be utilized as walking surfaces or roof boarding (Datcoop: pg. 8, lines 13-33), and asphalts (Czerwinski: col. 3, lines 44-51). Hence all three are drawn to the same field of endeavor.

14. Moran discloses that a way to decrease asphalt's tendency to soften and creep at high temperatures (as well as to improve its low temperature flexibility and solid-like properties) is to add thermoplastic elastomers such as styrene-butadiene-styrene ("SBS") block copolymers. The addition of such polymers serve to modify asphalt for additional applications, such as roofing sheets, adhesives and coatings (col. 1; lines 55-62). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include a styrene-butadiene copolymer in the invention of Datcoop or Czerwinski in order to decrease the resulting asphalt based product's tendency to soften and creep at high temperatures, as well as to improve its low temperature flexibility and solid-like properties. Hence either Datcoop or Czerwinski would look towards the teachings of Moran to improve the respective compositions. Wherein the total amount of thermoplastic binder in the compositions of either Datcoop or Czerwinski would include the amount of styrene-butadiene copolymer added.

15. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Czerwinski et al. in view of K  chler et al.

16. Czerwinski applies as above, teaching thermoplastic compositions useful as coatings and films but failing to teach the claimed manufacture process including the treatment, dewatering, and drying steps. K  chler teaches aqueous plastic dispersions of vinyl polymers and filler, where the filler comprises fibrous material (abstract). Preferred fibers include leather fibers (col. 3 lines 20-36). The reference teaches a process of adding fibers to a plastic dispersion, treating the dispersion with

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aluminum sulfate in an additive amount of 5-20% by weight, removing the water, and drying the mixture to form a sheet (col. 3 line 52-col. 4 line 13). This process is used to form sheets of vibration-damping properties. Thus, it is the examiner's position that it would have been prima facie obvious to employ the methods of Kuchler's invention to form materials of improved vibration damping properties.

17. Applicants have argued that the purpose of Czerwinski is to produce liquid compositions, and that the combination of the process of Kuchler would vitiate the purpose of Czerwinski's invention. Examiner notes that indeed Czerwinski desires liquid compositions, however, the final products of Czerwinski's invention include coatings, adhesives, asphalts, sealants, and the like (col. 3, lines 44-55). Czerwinski discloses that the final product is a gel-like solid mass or body having sufficient cohesive force to withstand distortion by gravitational force when suspended freely in an inverted receptacle or on a coated object (col. 3, lines 12-19). Hence the final product of Czerwinski is a gel-like solid mass, not a liquid, and therefore the combination with Kuchler is rendered valid.

18. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czerwinski et al. in view of Toyota.

19. Czerwinski applies as above for the making of leather products, failing to mention the use of hot-melt films to form leather laminates. Toyota teaches a method of bonding leather to a backing material via a hot-melt adhesive to form seating articles having improved mechanical strength (abstract). The molten adhesive would inherently form a film between the two outer layers. It is the examiner's position that it would have been prima facie obvious to use Toyota's article-forming method to form leather articles having improved appearance while having improved mechanical strength.

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20. In response to applicant's arguments that the combination of Czerwinski and Toyota is invalid, as discussed above the final product of Czerwinski is a gel-like solid mass, not a liquid. Hence the combination of Czerwinski and Toyota is valid, especially in light of the fact that Czerwinski recognizes that the final product can be used to make leather products.

21. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Toyota discloses that the article-forming method to form leather articles results in improved appearance while having improved mechanical strength. Hence sufficient motivation exists for the combination.

### ***Response to Arguments***

22. The responses to some of the arguments have been provided above. The remaining arguments are addressed below.

23. Applicant's arguments, with respect to Bergmann have been fully considered and are persuasive. The rejection under Bergmann has been withdrawn.

24. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., formation of coagulated dispersions during the process) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).




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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saira Haider whose telephone number is (571) 272-3553. The examiner can normally be reached on Monday-Friday from 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Saira Haider  
Examiner  
Art Unit 1711



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